

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

<b>MARIO DWAYNE DOMINICK,</b>	)	
<b>Plaintiff,</b>	)	
	)	<b>C.A. No. 22-284 Erie</b>
	)	
v.	)	<b>District Judge Susan Paradise Baxter</b>
	)	<b>Chief Magistrate Judge Richard Lanzillo</b>
<b>CORRECTIONS OFFICER BEVINO,</b>	)	
<b>et al.,</b>	)	
<b>Defendants.</b>	)	

**MEMORANDUM ORDER**

Plaintiff Mario Dwayne Dominick, an inmate incarcerated at the Erie County Prison in Erie, Pennsylvania (“ECP”), initiated this civil rights action on October 3, 2022, by filing a *pro se* complaint against four corrections officers at ECP: Bebevino (incorrectly identified by Plaintiff as “Bevino”), Rider, Gould, and Slivinski. This matter was referred to United States Magistrate Judge Richard A. Lanzillo for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

Plaintiff claims that each of the Defendants violated his rights under the eighth amendment to the United States Constitution. In particular, Plaintiff alleges that Defendant Rider failed to intervene to stop another inmate from assaulting him, Defendant Bebevino subjected him to unsafe conditions of confinement by placing him in a cell with a “known homosexual” for five days, Defendant Gould encouraged inmates to harass him, and Defendant Slivinski made offensive comments to or about him.

On August 23, 2023, Defendants filed a motion to dismiss Plaintiff’s complaint for

failure to state a claim [ECF No. 22]. The motion was unopposed by Plaintiff.

On February 8, 2024, Chief Magistrate Judge Lanzillo issued a Report and Recommendation (“R&R”) [ECF No. 29] recommending that Defendants’ motion be granted as to (1) any claim purporting to assert a private right of action under the Prison Rape Elimination Act (“PREA”), and (2) all claims asserted against Defendants Bevevino, Gould, and Slivinski, and that such claims should be dismissed with prejudice; however, the R&R recommends that Defendants’ motion be denied as to Plaintiff’s Eighth Amendment claim against Defendant Rider for his alleged failure to intervene. No timely objections to the R&R have been filed.

After *de novo* review of the complaint and documents in this case, together with the report and recommendation, the following order is entered:


AND NOW, this 27th day of February, 2024;

IT IS HEREBY ORDERED that Defendants’ motion to dismiss [ECF No. 22] is granted in part and denied in part, as follows:

1. Defendants’ motion is GRANTED as to any claim purporting to assert a private right of action under the PREA, and such claim is DISMISSED, with prejudice;
2. Defendants’ motion is GRANTED as to all of Plaintiff’s claims against Defendants Bevevino, Gould, and Slivinski, and such claims are DISMISSED, with prejudice; and
3. Defendants’ motion is DENIED as to Plaintiff’s Eighth Amendment claim against Defendant Rider for his alleged failure to intervene.

By virtue of the foregoing, the Clerk is directed to terminate Defendants Bevevino, Gould, and Slivinski from this case. The report and recommendation of Chief Magistrate Judge Lanzillo, issued February 8, 2024 [ECF No. 29], is adopted as the opinion of the

court.

  
SUSAN PARADISE BAXTER  
United States District Judge

cc: The Honorable Richard A. Lanzillo  
Chief U.S. Magistrate Judge

all parties of record